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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/711,970	11/14/2000	Wayne H. Rothschild	47079-00063	8706

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EXAMINER

RADA, ALEX P

ART UNIT

PAPER NUMBER

3714

DATE MAILED: 08/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/711,970

Applicant(s)

ROTHSCHILD, WAYNE H.

Examiner

Alex P. Rada

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 13-38, 40-54, 57, 59, 60 and 62-72 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13-38, 40-54, 57, 59, 60 and 62-72 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

In response to the amendment filed June 6, 2003, in which the applicant has amended claims 1, 28, 57, 59, 60, 64, 66, and 67, add new claims 68-72, cancels claims 12, 39, 55, 56, 58, and 61, and claims 1-11, 13-38, 40-54, 57, 59-60, and 62-72 are pending in this office action.

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the method (program diagram) of claims 28-54, 68, and 69 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international

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application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-8, 10-11, 13-19, 22-35, 37-38, 40-46, 49-54, 57, 59-60, 62-63, and 66-72 are rejected under 35 U.S.C. 102(e) as being anticipated by Jaffe '432.

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Jaffe discloses a basic game, a processor, a wager amount, a plurality of simulated reels on a visual display, one or more special symbols, and an interplay feature activated by the processor in response to at least one special symbol appearing in the array, the interplay including a symbol interaction randomly selected from a plurality of possible symbol interactions between the special symbol and at least one other symbol, the selected symbol interaction to determine a game outcome from a plurality of possible game outcomes, having the symbol interaction animates the array to portray the game outcome as recited in claims 1, 28, 57, 59-63, and 66-72;

the visual display is a video display as recited in claims 2 and 29;

each of the special symbols is associated with at least one of the other special symbols (special symbol and stop symbol) and all the symbols are special symbols as recited in claims 3-4, and 30-31;

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the basic game has one or more themes and each special symbol relates to at least one of the themes (column 2, lines 53-61) as recited in claims 5 and 32;

the number of reels depends on the theme of the game as recited in claims 6 and 33;

the symbols in the array are arranged in visual association with one or more pay lines, the pay lines including at least on thematic pay line and a scatter pay line (figures 3-13) as recited in claims 7-8 and 34-35;

the outcome of the interplay feature depends on an input from a player (activation of the game) as recited in claims 10 and 37;

the arrangement and outcome of the interplay are determined at least in part by proximity of the special symbols in the symbol array (figures 3-13) as recited in claims 11 and 38;

the interplay generates a payout depending at least in part on an outcome and the affects initialization or scoring of a subsequent round of the interplay feature, and an action screen shown on the visual display (column 4, line 41 – column 5, line 42), as recited in claims 13-15 and 40-42;

the symbols in the array are arranged in visual association with one or more pay lines and the interplay feature illustrating the path of a pay line (figure 3-13) as recited in claims 16 and 43;

the number of reels is adjusted (column 5, line 43 – column 6, line 67) according to an outcome of the interplay feature as recited in claims 17 and 44;

the payout is determined at least in part by the symbol array before or after the interplay feature (figures 3-13) as recited in claims 18 and 45;

during the interplay feature the processor animates at least one of the symbols (figures 3-13) as recited in claims 19 and 46;

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the special symbol moves from a first position in the symbol array to a second position in the array (figures 3-13) and the second position in the array is occupied by another special symbol (figures 3-13) as recited in claim 22-23 and 49-50;

the special symbol moves to a plurality of positions in the symbol array during the interplay feature (figures 3-13) and wherein at least one of the reels stops rotating after the processor stops as recited in claims 24-25 and 51-52;

during the interplay the special symbol interacts with graphics on the display other than the symbols on the reels (running and hiding) as recited in claims 26 and 53; and

the action screen is superimposed over the symbols in the array (figures 3-13) as recited in claims 27 and 54.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 9, 20-21, 36, 47-48, and 64-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jaffe '432 in view of Roffman '568.

6. Jaffe further discloses a basic game, a processor, a wager amount, a plurality of simulated reels on a visual display, one or more special symbols, and an interplay feature activated by the processor in response to at least one special symbol appearing in the array, the interplay including a symbol interaction randomly selected from a plurality of possible symbol interactions between the special symbol and at least one other symbol, the selected symbol interaction to determine a game

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outcome from a plurality of possible game outcomes, having the symbol interaction animates the array to portray the game outcome as recited in claim 64, the game may be implemented with any alternative game themes, and the claimed invention as discussed above except for the theme of the game is selected from a group consisting of football, basketball, baseball, golf, hockey, volleyball, soccer, bowling, archery, people, objects, animals, and vehicles as recited in claims 9, and 36; and the interplay feature simulates a sports event (column 8, line 4 – column 10, line 35) as recited in claims 20, 47 and 64; and the sports event is selected from the group consisting of a pitcher throwing a baseball, a hitter hitting a baseball, a catcher catching a baseball, a quarterback throwing a football to a receiver, a quarterback or receiver running with a football, a kicker kicking a football, a hurdler hurdling a hurdle, a pole vaulter vaulting a bar, a long jumper mumping a pit, and a basket ball shooter throwing a basketball through hoop as recited in claim 21, 48, and 65.

Roffman teaches several alternative theme games in a game machine and different types of sporting event incorporating particular features or characteristics of the game like Baseball, Football, Soccer, etc (column 7, line 57 – column 10, line 42). By having different alternative types of theme games and incorporating particular features or characteristics of different types of sporting events for a gaming machine, one of ordinary skill in the art would be able provide game players with familiar types of games to play. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention was made to modify Jaffe to include the theme of the game being selected from a group consisting of football, basketball, baseball, golf, hockey, volleyball, soccer, bowling, archery, people, objects, animals, and vehicles, and sports event being selected from the group consisting of a pitcher throwing a baseball, a hitter hitting a baseball, a catcher catching a baseball, a quarterback throwing a football to a receiver, a quarterback or receiver running with a football, a kicker kicking a football, a hurdler hurdling a hurdle, a pole vaulter vaulting a bar, a long

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jumper mumping a pit, and a basket ball shooter throwing a basketball through hoop as taught Bally Roffman. To do so would provide games players with familiar types of games to play.

Conclusion


7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wain '019 discloses a game machine replacing a symbol at one region with a symbol displayed elsewhere on the screen.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex P. Rada whose telephone number is 703-308-7135. The examiner can normally be reached on Monday - Friday, 08:00-16:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

APR
apr


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